

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Request for Review by Puerto Rico	)	WC Docket No. 08-71
Telephone Company of Decision of the	)	
Universal Service Administrator	)	

**PUERTO RICO TELEPHONE COMPANY'S REQUEST FOR REVIEW OF  
DECISION OF THE UNIVERSAL SERVICE ADMINISTRATOR**

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**I. STATEMENT OF ISSUES AND INTEREST**

Pursuant to Sections 54.719, 54.721, and 54.722 of the Federal Communications Commission's ("Commission" or "FCC") rules,<sup>1</sup> Puerto Rico Telephone Company ("PRT") seeks review of the Universal Service Administrative Company's ("USAC") Management Response to Audit Report HC-2009-FL-119, Follow-up Audit to HC-2008-151, which purports to evaluate PRT's compliance with the Federal High Cost Universal Service program for the period from July 1, 2007 to June 30, 2008.<sup>2</sup>

Specifically, PRT urges the Commission to reverse USAC's legally infirm decision that PRT was "overpaid" \$565,453 in Interstate Common Line Support ("ICLS") because PRT allegedly failed to comply with the Commission's continuing property record ("CPR") rules.<sup>3</sup> The Commission should reverse USAC's decision because: (1) USAC and the auditor

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<sup>1</sup> 47 C.F.R. §§ 54.719, 54.721, and 54.722.

<sup>2</sup> See Appendix A (Puerto Rico Telephone Company (SAC Number: 633201) – Performance Audit for the Universal Service Fund Disbursements During the Twelve-Month Period Ended June 30, 2008, prepared by KPMG LLP) ("KPMG Audit Report"); Appendix B (Letter from Craig Davis, USAC, to Robert Figenschier, PRT (Nov. 12, 2010)) ("USAC Nov. 12<sup>th</sup> Letter").

<sup>3</sup> USAC's November 12<sup>th</sup> Letter refers to seeking recovery from PRT in the amount of \$565,453 for the alleged overpayment of ICLS.

retroactively apply a document retention rule effective in January 2008 to CPR practices from 2005; (2) any failure by PRT to maintain CPR records does not establish that PRT was overpaid ICLS, and USAC's determination to the contrary is inconsistent with Section 254(e) of the Communications Act and Sections 54.7 and 54.904(a) of the Commission's rules, which only require a universal service recipient to use the funding "for the provision, maintenance, and upgrading of facilities *and services* for which the support is intended";<sup>4</sup> and (3) USAC's audit inappropriately goes beyond assessing the veracity of data provided by PRT as required by USAC Forms 507, 508, and 509 for purposes of ICLS support distribution. Accordingly, the Commission should reverse USAC's decision.

## **II. STATEMENT OF FACTS**

PRT is an incumbent local exchange carrier providing service in Puerto Rico. In 2009, USAC retained KPMG LLP ("KPMG") to audit PRT's compliance with the applicable rules and orders governing disbursements of high cost support made to PRT from July 1, 2007 through June 30, 2008.<sup>5</sup> KPMG's work was performed from April 22, 2010 to July 29, 2010, and its results are as of July 29, 2010. In KPMG's Audit Report, it alleged that PRT failed to retain sufficient documentation of its assets and expenses, which, according to KPMG, meant that PRT had been overpaid \$565,453 in ICLS.<sup>6</sup>

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<sup>4</sup> See 47 U.S.C. § 254(e); 47 C.F.R. §§54.7 and 54.904(a) (emphasis added).

<sup>5</sup> The High Cost support received by PRT during the twelve-month period ended June 30, 2008, was based on the following annual financial and operational data submitted by PRT to NECA and USAC: (1) 2005 FCC Form 509, based on calendar year 2005 data; (2) FCC Form 507 with loop data for the 2005 calendar year; and (3) FCC Form 508, based on projected financial data for the program year beginning July 1, 2007 through June 30, 2008.

<sup>6</sup> Appendix A (KPMG Audit Report at 4).



In making this determination, KPMG reviewed 58 asset samples and 65 expense samples from the material accounts identified in PRT's 2005 Form 509; assets that were in service as of December 31, 2005.<sup>7</sup> Out of the 58 assets, KPMG alleged that PRT "was unable to provide sufficient supporting documentation for 19."<sup>8</sup> KPMG also alleged that for another seven of the selected assets PRT only provided "partial support."<sup>9</sup> According to KPMG, this resulted in a potential overstatement of USF disbursements of \$520,941, "as the amounts originally reported could not be supported."<sup>10</sup> Out of the 65 expense items, KPMG alleged that PRT "was unable to provide sufficient documentation to support six," and this resulted in a potential overstatement of USF disbursements of \$103,262.<sup>11</sup> KPMG's Audit Report failed to explain: (i) how these amounts were calculated; (ii) how PRT's conduct violated the Commission's rules in place during 2005; or (iii) how PRT's failure to comply with rules that were not in effect for universal service support purposes translates into an over-recovery of ICLS.<sup>12</sup>

*USAC High Cost Management Response.* On August 25, 2010, USAC issued its written response to KPMG's recommended findings. At bottom, USAC concurred with the auditor and

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<sup>7</sup> *Id.* at n.1-2.

<sup>8</sup> *Id.* at 11.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* at 12.

<sup>11</sup> *Id.* at 13. Taken together, KPMG estimated that the ICLS disbursements for these unsupported assets and expenses were \$624,203. KPMG also concluded, however, that PRT was undercompensated \$58,750 for End User SLC Revenues reported on the 24 Month View Report and the 2005 FCC Form 509. Subtracting the one underpayment from the two potential overpayments, KPMG calculates that PRT was overpaid \$565,453 in ICLS support.

<sup>12</sup> Without further explanation, KPMG cites to an ICLS record retention rule that did not become effective until 2008 (47 C.F.R. § 54.202(e)), as well as two accounting rules (47 C.F.R. §§ 32.12(a),(b), 32.2000(e)(2)) that do not govern the high cost program or inform USAC's audit authority.

concluded that PRT “does not have documentation consistent with the Part 32 rules necessary to support account data reported in its filings with the National Exchange Carrier Association and USAC.”<sup>13</sup> Accordingly, USAC concluded that it will recover High Cost support in the amount of \$565,453 from PRT.<sup>14</sup>

*USAC October 25, 2010 Letter to PRT.* On October 25, 2010, USAC sent PRT a letter that contained the final report from KPMG, as well as the USAC High Cost Management Response.<sup>15</sup>

*USAC November 12, 2010 Letter to PRT.* On November 12, 2010, USAC sent PRT a letter explaining that “as is USAC’s policy with adverse or disclaimer opinions, [KPMG’s] follow-up audit was required to quantify the monetary effect of audit HC-2008-151 conducted by KPMG LLP.”<sup>16</sup> According to USAC, the “effect quantified will result in a recovery of \$565,453 of Interstate Common Line Support for SAC 633201.”<sup>17</sup> USAC noted that it “will recover these funds from [PRT’s] January 2011 High Cost support payment, which will be disbursed at the end of February 2011.”<sup>18</sup>

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<sup>13</sup> Appendix A (USAC High Cost Management Response at 1).

<sup>14</sup> *Id.* at 2.

<sup>15</sup> Appendix C (Letter from High Cost Program Management, USAC, to PRT, regarding “Results of the Follow-Up Audit to the 2008-2009 FCC OIG Audit” (Oct. 25, 2010)).

<sup>16</sup> Appendix B (USAC Nov. 12<sup>th</sup> Letter at 1).

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

### **III. STATEMENT OF LAW**

The record-keeping requirements applicable to recipients of ICLS and USAC's ICLS audit authority—as set forth in Section 54 of the Commission's rules—changed dramatically as of January 23, 2008. Prior to that date, as described below, the FCC's rules did not require ICLS recipients to maintain specific documents and only granted USAC vague authority to audit the veracity of ICLS data submitted to USAC.

Although the Commission began in 2002 to add specific recordkeeping requirements for various aspects of the USF, *it was not until January 23, 2008 that a specific document retention rule for recipients of high cost funding took effect*. This rule—detailed below—requires the retention for five years of particular documentation, including data supporting line count filings, historical customer records, fixed asset property accounting records, general ledgers, invoice copies for the purchase and maintenance of equipment, and maintenance contracts for the upgrade of equipment. *Importantly, no such rule was in effect in 2005, the period during which PRT allegedly failed to maintain the records necessary to justify its receipt of ICLS.*

#### **A. 47 C.F.R. § 54—The FCC's USF Document Retention Rules**

Although other universal service support mechanisms have had specific regulatory recordkeeping requirements since 2002, *the Commission did not impose such a requirement on recipients of ICLS until 2008*. For instance, the FCC amended its rules in December 2002 to require contributors to universal service support to “maintain records and documentation to justify information reported ... , including the methodology used to determine projections, for three years and ... provide such records and documentation to the Commission or [USAC] upon

request.”<sup>19</sup> In December 2003, the FCC similarly amended its rules to require health care providers receiving universal service support to “maintain for their purchases of services supported . . . documentation for five years from the end of the funding year sufficient to establish compliance with all rules.”<sup>20</sup> The Commission specified that such “[d]ocumentation must include, among other things, records of allocations for consortia and entities that engage in eligible and ineligible activities, if applicable.”<sup>21</sup>

However, not until June 2005 did the FCC even *seek comment*—in the context of a comprehensive USF notice of proposed rulemaking—on whether to “adopt document retention rules for all of the USF mechanisms.”<sup>22</sup> The agency finally promulgated such retention rules in August 2007, “requir[ing] that information necessary to determine compliance with th[e] Commission’s rules and regulations be available to [USAC], its auditors, and Commission personnel upon request, *for all USF programs*.”<sup>23</sup> With respect to the high-cost program, which includes ICLS, the FCC amended section 54.202 of its rules to provide that “[a]ll eligible telecommunications carriers . . . retain [for at least five years from the receipt of funding] all records required to demonstrate to auditors that the support received was consistent with the

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<sup>19</sup> *Federal-State Joint Board on Universal Service*, 67 Fed. Reg. 79525, 79533 (Dec. 30, 2007) (codified at 47 C.F.R. § 54.711(a)).

<sup>20</sup> *Rural Health Care Support Mechanism*, 68 Fed. Reg. 74492, 74503 (Dec. 23, 2003) (codified at 47 C.F.R. § 54.619(a)).

<sup>21</sup> *Id.*

<sup>22</sup> *Comprehensive Review of Universal Service Fund Management, Administration, and Oversight*, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, 20 FCC Rcd 11308, ¶ 83 (2005) (“*Program Management NPRM*”).

<sup>23</sup> *Comprehensive Review of Universal Service Fund Management, Administration, and Oversight*, Report and Order, 22 FCC Rcd 16372, ¶ 23 (2007) (“*Program Management Report and Order*”) (emphasis added).

universal service high-cost program rules.”<sup>24</sup> The agency specified that such “records should include the following: data supporting line count filings; historical customer records; fixed asset property accounting records; general ledgers; invoice copies for the purchase and maintenance of equipment; maintenance contracts for the upgrade of equipment; and any other relevant documentation.”<sup>25</sup> *This amended rule took effect on January 23, 2008*, the date on which the Office of Management Budget gave its approval.<sup>26</sup>

In short, the record-keeping obligations of recipients of ICLS and the corresponding scope of USAC’s ICLS audit authority changed on January 23, 2008. With the new rule, ICLS recipients were required to maintain on a going-forward basis specific documentation, and USAC was authorized to audit a recipient of ICLS by requesting access to the documents required to be maintained pursuant 47 C.F.R. § 54.202(e).

**B. Legal Consequences for Failing to Produce the Specific Documents USAC Requested**

In an audit of ICLS payments, a recipient’s failure to maintain *documents that were not required to be maintained prior to January 23, 2008* is *not* a failure to comply with the FCC universal service rules. As explained above, prior to that date the Commission did not have any rules mandating the retention of particular records related to ICLS funding. The USF rules simply required that ICLS participants complete FCC Forms 507, 508, and 509 and submit a

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<sup>24</sup> *Measures to Safeguard the Universal Service Fund from Waste, Fraud, and Abuse as well as Measures to Improve the Management, Administration, and Oversight of the Universal Service Fund*, 72 Fed Reg. 54214, 54217-18 (Sept. 24, 2007) (codified at 47 C.F.R. § 54.202(e)).

<sup>25</sup> *Id.* at 54218.

<sup>26</sup> *See Comprehensive Review of the Universal Service Fund*, 73 Fed. Reg. 11837, 11837 (Mar. 5, 2008).

certification attesting to the accuracy of their filings.<sup>27</sup> Although the rules plainly permitted USAC to audit the veracity of the submitted ICLS data—including these forms—they did not authorize USAC to demand—or require ICLS recipients to retain—any specific document or category of documents.<sup>28</sup> Nor did the rules specify how long a recipient needed to retain such records. Prior to 2008, so long as an ICLS recipient provided an auditor with some form of evidence justifying its receipt of ICLS, the recipient complied with the FCC’s rules.

Furthermore, section 254(e) of the Communications Act and FCC Rules 54.7 and 54.904(a) require a universal service recipient to use the funding “for the provision, maintenance, and upgrading of facilities *and services* for which the support is intended.”<sup>29</sup> Thus, the fact that an ICLS recipient may not retain relevant records regarding its assets and expenses does not mean that ICLS was improperly paid to the recipient. As detailed below, USAC’s audit failed to grasp this important point or to even acknowledge that USF funding can be used for the provision of service and not just the build out and purchase of facilities.

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<sup>27</sup> The USF rules also required that a recipient certify pursuant to 54.904 “that all ICLS provided to such carrier will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.” 47 C.F.R. § 54.904.

<sup>28</sup> As for documents generated *after* January 23, 2008, the failure to produce specific documents—and in particular those documents listed in 47 C.F.R. § 54.202(e)—may be considered a rule violation subject to penalty even though the FCC was not explicit on that point in its order adopting the document retention rules. However, it does not necessarily follow that such a rule violation would result in the recipient losing universal service support

<sup>29</sup> See 47 U.S.C. § 254(e); 47 C.F.R. §§54.7 and 54.904(a) (emphasis added).

#### IV. ARGUMENT

##### A. USAC's Application of Record-Keeping Requirements Made Effective by the Commission in 2008 to an Audit of Service Provided in 2005 Is Impermissibly Retroactive and Violates Due Process.

USAC's application of record-retention requirements made effective in 2008 to PRT's provision of service in 2005 is impermissibly retroactive and violates fundamental principles of due process. The APA limits "rules" to agency prescriptions of "future effect"<sup>30</sup> and prohibits retroactive rules.<sup>31</sup> A rule is primarily retroactive<sup>32</sup> if it "impair[s] rights a party possessed when he acted, increase[s] a party's liability for past conduct, or impose[s] new duties with respect to transactions already completed."<sup>33</sup> Such rules are "categorical[ly] limit[ed]," *i.e.*, per se unlawful.<sup>34</sup> In addition, "[t]raditional concepts of due process incorporated into administrative

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<sup>30</sup> 5 U.S.C. § 551(4). *See also* *NCTA v. FCC*, 567 F.3d 659, 670 (D.C. Cir. 2009) (highlighting the "APA's requirement that legislative rules ... be given future effect only") (internal quotation omitted).

<sup>31</sup> *See, e.g., DIRECTV v. FCC*, 110 F.3d 816, 825-26 (D.C. Cir. 1997) (holding that "primarily retroactive" rules are per se unlawful under the APA); *Chadmoore Commc'ns, Inc. v. FCC*, 113 F.3d 235, 240 (D.C. Cir. 1997) ("[A] legislative rule may only be applied prospectively."); *see also Bowen v. Georgetown Univ. Hosp.*, 448 U.S. 204, 216 (1988) (Scalia, J., concurring) (stating that the APA "does not permit retroactive application" of agency rules).

<sup>32</sup> *See, e.g., DIRECTV*, 110 F.3d at 825-26; *see also, e.g., Bergerco Canada v. U.S. Treasury Dep't*, 129 F.3d 189, 192 (D.C. Cir. 1997) ("[T]here are two retroactivity limits in the APA: The first is a categorical limit, requiring express congressional authority and applying only in the domain of agency rules. The second limit is more elastic, governing all agency decisionmaking and involving the sort of balancing of competing values, both legal and economic, that often features in 'arbitrary or capricious' analysis and that has historically governed retroactivity considerations in the agency context.").

<sup>33</sup> *DIRECTV*, 110 F.3d at 825-26 (quoting *Landgraf v. USI Film Prods.*, 511 U.S. 244, 280 (1994)).

<sup>34</sup> *Bergerco Canada v. U.S. Treasury Dep't*, 129 F.3d 189, 192 (D.C. Cir. 1997).

law preclude an agency from penalizing a private party for violating a rule without first providing adequate notice of the substance of the rule.”<sup>35</sup>

USAC’s application of the record-keeping requirements that became effective in 2008 to PRT’s conduct in 2005 would be plainly retroactive.<sup>36</sup> Indeed, USAC has judged PRT’s conduct under a standard that was not in place during the period of service being audited. Specifically, USAC’s application of the 2008 standards to PRT’s 2005 conduct “impose[s] new duties with respect to transactions already completed,”<sup>37</sup> making it retroactive and thus unlawful. In addition, there can be no debate about whether PRT received “fair notice” that the 2008 record retention requirements would apply to its pre-2008 conduct<sup>38</sup> because PRT literally had *no* notice. In sum, applying the 2008 rules to earlier conduct would be blatantly retroactive and a denial of due process. Only for conduct after January 23, 2008 could USAC base audit findings on an ICLS recipient’s alleged failure to comply with the Commission’s record-keeping requirements for the high cost program.

USAC cannot sidestep this conclusion by relying on the Part 32 general accounting rules as the statutory basis for requiring a particular method of document retention. Section 32 addresses general accounting issues, not high cost auditing issues. Moreover, USAC’s authority

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<sup>35</sup> See, e.g., *Satellite Broad. Co. v. FCC*, 824 F.2d 1, 3 (D.C. Cir. 1987).

<sup>36</sup> PRT’s network planning and deployment have been driven by the USF support it has received. Based on the reasonable expectation that USAC *would not* seek to recover this money years later, PRT invested substantial sums of its own money to build out its network. With no analysis and minimal justification, all of which fails to pass scrutiny, USAC now proposes to take this money back. This squarely fits within the definition of retroactive rulemaking.

<sup>37</sup> *DIRECTV*, 110 F.3d at 826.

<sup>38</sup> *Trinity Broad. of Fla. v. FCC*, 211 F.3d 618, 628 (D.C. Cir. 2000) (holding that “due process requires that parties receive fair notice before being deprived of property,” and applying that requirement to a denial of a renewal application for a Commission license).



derives from Part 54 (and to a lesser extent, Part 36), not Part 32.<sup>39</sup> Indeed, in the *2005 Program Management NPRM*—when the Commission first proposed specific document retention requirements for recipients of high cost support—the Commission explained “that our rules pertaining to the High Cost support mechanism are contained in both Part 36 and Part 54.”<sup>40</sup>

The Commission has been clear what rules govern the high cost program. Even if USAC believed that this area of law was unclear—and interpreted Part 32 as empowering USAC to require that recipients maintain and provide specific documents as a condition to receiving ICLS—it is powerless to apply this interpretation to PRT. The Commission’s rules clearly provide: “*The Administrator may not make policy [or] interpret unclear provisions of the statute or rules ... Where the Act or Commission’s rules are unclear, or do not address a particular situation, the Administrator shall seek guidance from the Commission.*”<sup>41</sup> Here, USAC sought no guidance.<sup>42</sup>

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<sup>39</sup> In its final report, KPMG erroneously tries to draw support from Section 32.2000(e), which provides that “basic property records must be ... maintained throughout the life of the property.” 47 C.F.R. § 32.2000(e)(2). But this provision does not control the high cost fund, high cost fund audits, or high cost fund record retention. Indeed, if the Commission viewed this rule as requiring comprehensive record retention for USF mechanisms—as KPMG alleges—then the Commission would not have adopted three separate orders from 2002-2007 specifying document retention rules for contributors, health care recipients, and HCP recipients.

<sup>40</sup> *Program Management NPRM* at ¶ 47; see also “The High Cost Program: Initial Statistical Analysis of Data from the 2006/2007 Compliance Audits,” Office of Inspector General, FCC, at 11 (Oct. 3, 2007) (noting that a recipient of high cost support that is subject to an audit “is required to sign an assertion letter acknowledging its responsibility for compliance with applicable requirements of FCC rules (e.g., 47 C.F.R. Part 54, Subparts C, D, J and K and Part 36, Subpart F) with respect to disbursements made from the USF”).

<sup>41</sup> 47 C.F.R. § 54.702(c) (emphasis added).

<sup>42</sup> Notably, Part 32 only applies to ILECs. Thus, reading a rigorous document retention requirement into Part 32 (that would apply to conduct before 2008) is arbitrary and capricious because it would create an unlawful regulatory disparity between ILECs and non-ILEC

**B. USAC's Finding of Inadequate Property Records Does Not Establish an Over Recovery of ICLS and Is Inconsistent with Congressional and FCC Provisions Regarding The Use of Universal Service Support.**

Even if USAC correctly interpreted Part 32 as imbuing it with authority to require PRT to retain and produce specific documents—which it did not—USAC's allegation that PRT was overpaid ICLS because of its failure to comply with the Commission's CPR rules is misguided. Under Part 32 of the Commission's rules, carriers record investment in property, plant, and equipment and maintain certain supporting records, including basic property records. The basic property records consist of the CPRs, which include details concerning specific location, date of placement in service, and original cost of plant assets, and supplemental records, which include invoices, work orders, and engineering drawings to support the CPRs.<sup>43</sup> The CPRs "provide data for cost allocations studies used in state regulatory proceedings" and "provide material-only costs for accounting for transfers, reallocations, and adjustments of plant."<sup>44</sup> These records are not maintained for purposes of high cost universal service support, but instead are primarily used by state regulators "in their local ratemaking processes."<sup>45</sup>

Even though the CPRs were designed and are intended for ratemaking purposes, USAC determined that PRT's failure to comply with the CPR rules means that PRT was overpaid ICLS.

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recipients of universal service support. *See Burlington N. & Sante Fe Ry. Co. v. Surface Transp. Bd.*, 403 F.3d 771, 777 (D.C. Cir. 2005).

<sup>43</sup> 47 C.F.R. § 32.2000(e)(3).

<sup>44</sup> 2000 Biennial Regulatory Review -- Comprehensive Review of the Accounting Requirements and ARMIS Reporting Requirements for Incumbent Local Exchange Carriers: Phase 2; Amendments to the Uniform System of Accounts for Interconnection; Jurisdictional Separations Reform and Referral to the Federal-State Joint Board; Local Competition and Broadband Reporting, Report and Order in CC Docket Nos. 00-199, 97-212, and 80-286, Further Notice of Proposed Rulemaking in CC Docket Nos. 00-199, 99-301, and 80-286, 16 FCC Red 19911, ¶ 121 (2001).

<sup>45</sup> *Id.* (seeking comment on eliminating the CPR rules in three years).

USAC made this determination based on the auditor's sample of assets in service as of December 31, 2005 and expense transactions from 2005 for which the auditor requested supporting documentation. According to the auditor, PRT was unable to provide sufficient supporting documentation for 19 of the 58 assets selected for testing and was only able to provide partial support for 7 of those 58 assets. Also, KPMG claimed that PRT was unable to provide sufficient supporting documentation for 6 of the 65 expense items. Based on these samples, the auditor extrapolated (without any explanation) the amount of ICLS it claimed PRT was overpaid of which USAC now seeks recovery.

But USAC's and its auditor's conclusions are flawed. First, merely because PRT was unable to provide adequate documentation regarding the assets and expenses in question does not mean that these assets are missing or are being used to provide service for which USF subsidies are not intended to support. In fact, neither the audit report nor USAC's Management Response makes any mention of whether PRT is actually using the assets in question.

Second, even if any assets for which PRT was unable to provide sufficient supporting documentation are not in actual service, the only cause is a failure to properly retire the asset. Under the methods of accounting prescribed by the Commission in Part 32, however, the timing of the retirement of assets has no impact on the net investment used to set rates under rate of return regulation (under which PRT was operating prior to July 1, 2008), and certainly has no impact on rates under price-cap regulation. This is so because when plant is retired, there are equal and offsetting entries to the telephone plant in service and accumulated depreciation accounts. "Net Plant," the amount used to establish the rate base under rate-of-return regulation,

is unchanged.<sup>46</sup> Thus, even if it could be demonstrated that PRT failed to retire certain assets on a timely basis prior to price cap regulation, such failure would have no impact on rates and should have no corresponding effect on the amount of ICLS PRT receives.

Even beyond the fundamental error of USAC using a failure to comply with CPR requirements as a basis for concluding that PRT was overpaid ICLS, the methodology employed by the auditor to calculate such overpayment was flawed. Specifically, the audit was not designed to test the dollar value of the assets or expenses as recorded in the financial accounts. That is, the audit appears to be designed to test whether PRT maintained adequate information regarding the assets and expenses sampled (*e.g.*, location, identification number, and quantity) and not whether the dollars attributed to each asset and expense were accurately associated with the asset being used or expense of the item. By using such an approach, the audit was a completely ineffective tool to predict error in the investment accounts with any degree of certainty, let alone to extrapolate the amount of ICLS that PRT was allegedly overpaid.<sup>47</sup>

The Commission has previously been confronted with similar problems in connection with CPR audits. Specifically, in 1997, the Common Carrier Bureau's auditors began an audit of the CPRs of the Regional Bell Operating Companies ("RBOCs") to determine whether their records were being maintained in compliance with the Commission's rules.<sup>48</sup> In each audit, the

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<sup>46</sup> Financial results, regulated/nonregulated cost allocations, and jurisdictional separations are also based on "net plant." Accordingly, any evaluation of these items would not be affected by the failure to retire assets.

<sup>47</sup> It is difficult to tell exactly what the auditor did based on the audit report, and neither the auditor nor USAC provided the underlying calculations used to determine the amount of ICLS that PRT allegedly was overpaid.

<sup>48</sup> *Bell Atlantic (South) Telephone Companies' Continuing Property Records Audit*, Order, 14 FCC Rcd 5541 (rel. March 12, 1999) and *Bell Atlantic (North) Telephone Companies' Continuing Property Records Audit*, Order, 14 FCC Rcd 5855 (rel. March 12, 1999); *BellSouth*

Bureau auditors reported that the carrier's CPRs were deficient and did not comply with the Commission's rules and that certain equipment described in the CPRs could not be found by the Bureau auditors or by company personnel during the field audits. The proposed corrective action involved a recommendation that billions in RBOC assets be written off, which was based on a sample to extrapolate allegedly "missing" assets to the investment base.

The RBOCs filed extensive documentation demonstrating the flawed methodology of the CPR audits and unsupportable conclusions based on those audits.<sup>49</sup> In the face of such objections and in light of other regulatory developments, the Commission decided "not to pursue further investigation into the CPR audits and close the proceeding with regard to whether the CPRs reflected assets that were not purchased or used by the RBOCs in accordance with our rules."<sup>50</sup>

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*Telecommunications' Continuing Property Records Audit*, Order, 14 FCC Rcd 4258 (rel. March 12, 1999); *Southwestern Bell Telephone Company's Continuing Property Records Audit*, Order, 14 FCC Rcd 4242 (rel. March 12, 1999); *Ameritech Corporation Telephone Operating Companies' Continuing Property Records Audit*, Order, 14 FCC Rcd 4273 (rel. March 12, 1999); *Pacific Bell and Nevada Bell Telephone Companies Continuing Property Records Audit*, Order, 14 FCC Rcd 5839 (rel. March 12, 1999); *US West Telephone Operating Companies' Continuing Property Records Audit*, Order, 14 FCC 5731 (rel. March 12, 1999). In addition, the Bureau auditors had previously conducted a joint Federal-State CPR audit for GTE. See *GTE Telephone Operating Companies, Release of Information Obtained During Joint Audit*, Memorandum Opinion and Order, 13 FCC Rcd 9179 (rel. March 18, 1998).

<sup>49</sup> See, e.g., Comments of BellSouth Corporation, CC Docket 99-117, ASD File No. 99-22, at 9-20 (filed Sept. 23, 1999); Comments of Bell Atlantic, CC Docket 99-117, ASD File No. 99-22, at 2-6 (filed Sept. 23, 1999) (arguing that "the audit staff reports are so riddled with flaws that whatever the misguided intent in starting these audits, there is no usable information contained in the reports' results").

<sup>50</sup> 1998 Biennial Regulatory Review -- Review of Depreciation Requirements for Incumbent Local Exchange Carriers; *Ameritech Corporation Telephone Operating Companies' Continuing Property Records Audit*, et al.; *GTE Telephone Operating Companies Release of Information Obtained During Joint Audit*, Second Report and Order in CC Docket No. 99-137 and Order in CC Docket No. 99-117 and AAD File No. 98-26, 16 FCC Rcd 4083, ¶ 12 (2000).

While finding that the RBOCs' CPRs were not maintained in accordance with its rules, the FCC took no action, other than to "direct the Common Carrier Bureau to work with the RBOCs to evaluate and improve the accuracy of their property records and accounts to ensure compliance with our requirements going forward."<sup>51</sup> Under the circumstances, and in light of the due process issues discussed above, allowing USAC to recover alleged overpayments of ICLS to PRT based on a sample audit of PRT's compliance with the Commission's CPR rules would be unlawful.

Indeed, nothing in Communications Act or FCC rules requires a recipient to use ICLS only for the provision of *facilities*, as USAC and the auditor improperly assumed. To the contrary, Congress and the Commission have made clear that universal service recipients may use the funding "for the provision, maintenance, and upgrading of facilities *and services* for which the support is intended."<sup>52</sup> The Commission itself recognized that this anomaly in its rules created a particular problem in the case of competitive ETCs, which are required to submit no cost information whatsoever, and thus asked how it could improve the use to which universal service distribution is put.<sup>53</sup> In other words, even if Part 32 provided USAC authority to demand that USF recipients retain certain facility records, and PRT failed to retain such records, this would not by itself establish an over recovery because the statute and the rules permit a recipient

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<sup>51</sup> *Id.* at ¶ 13.

<sup>52</sup> See 47 U.S.C. § 254(e); 47 C.F.R. §§54.7 and 54.904(a). Notably, ICLS was adopted so that rate of return incumbent ILECs were compensated through the Universal Service Fund for lowering interstate access charges to interexchange carriers. See *High-Cost Universal Service Support, Federal-State Joint Board on Universal Service*, Order on Remand and Report and Order and Further Notice of Proposed Rulemaking, 23 FCC 6475, ¶ 177, n. 464 (2008). This is not the case for CETCs that receive this support.

<sup>53</sup> See *High-Cost Universal Service Support (Identical Support Rule) Federal-State Joint Board on Universal Service*, Notice of Proposed Rulemaking, 23 FCC Rcd 1467, ¶ 26 (2008) (seeking comment on how to strengthen the use certification process for competitive ETCs).

to use the funding for deployment of facilities *or the provision of service*. PRT most certainly used its funding to provide telecommunications services within Puerto Rico.<sup>54</sup> And USAC does not dispute this fact.

**C. USAC's Audit Goes Well Beyond the Veracity of the Data Provided by PRT as Required by USAC Pursuant to FCC Forms 507, 508, and 509.**

In adopting the ICLS mechanism in 2001, the Commission directed USAC to focus its audits on the information submitted by applicants in the relevant FCC application forms and the required certifications. The Commission emphasized that “to ensure that carriers receiving [ICLS] ... will use that support in a manner consistent with section 254(e), we shall require carriers seeking such support to file a certification with the Commission and the Administrator.”<sup>55</sup> The Commission then tasked USAC with “perform[ing] audits of beneficiaries of the new [ICLS] mechanism to ensure the *accuracy of data submitted*.”<sup>56</sup>

Notably, the Commission did not direct USAC to investigate—or to force carriers to retain—the additional documentation USAC has required in the instant case.<sup>57</sup> When PRT applied for ICLS in 2005, it fulfilled its requirement to complete FCC Forms 507, 508, and 509 and submit a certification attesting to the accuracy of its filings. And USAC—in reviewing the

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<sup>54</sup> Notably, Section 214(e)(4) compels an ETC to seek state commission permission before it withdraws from providing service.

<sup>55</sup> *Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, 16 FCC Rcd 19613, ¶¶ 162, 176 (2001) (“MAG Order”).

<sup>56</sup> *Id.* (emphasis added).

<sup>57</sup> During 2005, the Part 54 audit rules simply provided USAC with authority to “suspend or delay . . . support amounts provided to a carrier if the carrier fails to provide adequate verification of . . . support amounts provided upon reasonable request.” 47 C.F.R. § 54.707. But this provision did not impose *specific* document retention requirements or mandatory document retention periods that would justify USAC’s decision in the instant case.



“accuracy of data submitted”—does not take issue with the veracity of the data provided in PRT’s completed forms and certifications. Nor can it. PRT passed extensive annual financial audits performed by external CPA firms, which ensured that the assets recorded in the company’s accounts had indeed been acquired and were being used in the provision of service to customers.<sup>58</sup> Given this, USAC’s decision to recover ICLS funding based on PRT’s failure to provide records that it was not required to maintain and that do not establish whether it properly made use of high cost support would be arbitrary and capricious.

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<sup>58</sup> The 2004 and 2005 financial data that are the subject of the current and recent USAC audits performed by KPMG not only passed the annual CPA firm audits, but also additional auditing for compliance with the FCC Part 64 rules. The Part 64 audits were performed by an external CPA firm and ensured that the account balances validated in the annual financial audits (under Generally Accepted Accounting Procedures) were properly adjusted to reflect the valuation requirements of the FCC Part 32 rules, that they were correctly segregated between the regulated and nonregulated categories (based on the company’s cost allocation manual filed with the FCC), and that these regulated and nonregulated balances were correctly reported to the FCC in the company’s ARMIS 43-03 reports. Finally, the entire accounting process and jurisdictional cost separations process that produced the company’s Interstate Common Line Revenue Requirement, which was the basis for the amount of ICLS received by the company was subject to ongoing monitoring and verification by the National Exchange Carrier Association (“NECA”), because PRT was a member of the NECA Common Line Pool. Now USAC chooses to ignore all of the auditing initially passed by the company, which ensured that PRT received only the correct amount of support, in order to justify their misguided claim that the company received more than it should have.



V. CONCLUSION

For the foregoing reasons, the Commission should overrule USAC's decision to seek to recover \$565,453 in ICLS from PRT.

Respectfully submitted,

  
/s/

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January 11, 2011

## **APPENDIX A – AUDIT REPORT**

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*Puerto Rico Telephone Company*  
*Follow-up Audit Number: HC-2009-FL-119*  
*(SAC Number: 633201)*

*Performance audit for the Universal Service Fund*  
*disbursements made during the twelve-month period*  
*ended June 30, 2008*

Prepared for: Universal Service Administrative Company

As of Date: July 29, 2010

KPMG LLP  
2001 M Street NW  
Washington, DC 20036

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KPMG LLP  
2001 M Street, NW  
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## EXECUTIVE SUMMARY

July 29, 2010

Mr. Wayne Scott, Vice President – Internal Audit Division  
Universal Service Administrative Company  
2000 L Street, N.W., Suite 200  
Washington, DC 20036

Dear Mr. Scott:

This report presents the results of our work conducted to address the performance audit objectives relative to the Puerto Rico Telephone Company, Study Area Code (“SAC”) No. 633201, (“PRTC” or “Beneficiary”) for disbursements, of \$40,497,504, made from the Universal Service Fund (“USF”) during the twelve-month period ended June 30, 2008. Our work was performed during the period from April 22, 2010 to July 29, 2010 and our results are as of July 29, 2010.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The objective of this performance audit was to evaluate the Beneficiary’s compliance with the applicable requirements of 47 C.F.R. Part 54, Subparts C, D, and K, Part 36, Subpart F, and Part 32, Subpart B, of the Federal Communications Commission’s (“FCC”) Rules as well as FCC Orders governing Universal Service Support for the High Cost Program (“HCP”) relative to disbursements, of \$40,497,504, made from the USF during the twelve-month period ended June 30, 2008.

As our report further describes, KPMG identified the following as a result of the work performed:

1. **HC-2009-FL119-F01: Unsupported or Partially Supported Assets** – KPMG selected a statistical sample of assets in service as of December 31, 2005 for testing. The Beneficiary was unable to provide sufficient supporting documentation for 19 of the 58 assets selected for testing. In addition, the Beneficiary was only able to provide partial support for seven of the 58 assets selected for testing. This resulted in a potential overstatement of USF disbursements of \$520,941, as the amounts originally reported could not be supported.
2. **HC-2009-FL119-F02: Unsupported Expenses** – KPMG selected a statistical sample of expense transactions from 2005 for testing. The Beneficiary was unable to provide sufficient documentation to support six of the 65 expense items selected for testing. This resulted in a potential overstatement of USF disbursements of \$103,262, as the amounts originally reported could not be supported.

3. **HC-2009-FL119-F03: Incorrect End User Subscriber Line Charge ("SLC") Revenue** – The End User SLC Revenues reported on the 24 Month View Report and the 2005 FCC Form 509 were overstated by \$58,750 for October 2005. This resulted in USF disbursements being \$58,750 lower than they would have been had the amounts been reported properly.

Based on the above results, we estimate that disbursements made to the Beneficiary from the USF for the HCP for the twelve-month period ended June 30, 2008 were potentially overstated by \$565,453 as the amounts originally reported could not be supported.

In addition, KPMG also noted other matters that have been reported to management of the Beneficiary in a separate letter dated July 29, 2010.

This performance audit did not constitute an audit of financial statements in accordance with *Government Auditing Standards*. KPMG was not engaged to, and did not render an opinion on the Beneficiary's internal controls over financial reporting or over financial management systems (for purposes of OMB's Circular No. A-127, *Financial Management Systems*, July 23, 1993, as revised). KPMG cautions that projecting the results of our evaluation to future periods is subject to the risks that controls may become inadequate because of changes in conditions or because compliance with controls may deteriorate.

Sincerely,

**KPMG LLP**

### **List of Acronyms**

<b>Acronym</b>	<b>Definition</b>
ARMIS	Automated Reporting and Management Information System
C&WF	Cable and Wire Facilities
CAM	Cost Allocation Manual
CLEC	Competitive Local Exchange Carrier
COE	Central Office Equipment
CPRs	Continuing Property Records
FCC	Federal Communications Commission
Form 508	Interstate Common Line Support Mechanism Projected Annual Common Line Revenue Requirement Form
Form 509	Interstate Common Line Support Mechanism Annual Common Line Actual Cost Data Collection Form
G/L	General Ledger
HCL	High Cost Loop
HCL Form	National Exchange Carrier Association Universal Service Fund Data Collection Form
HCP	High Cost Program
HCM	High Cost Model
IAS	Interstate Access Support
ICLS	Interstate Common Line Support
LSS	Local Switching Support
LSS Form	Local Switching Support Data Collection Form – Truc-up
NECA	National Exchange Carrier Association
PRTC	Puerto Rico Telephone Company
SAC	Study Area Code
SLC	Subscriber Line Charge
SNA	Safety Net Additive
SVS	Safety Valve Support
TRB	Puerto Rico Telecommunication Regulatory Board
TPIS	Telecommunications Plant In Service
USAC	Universal Service Administrative Company
USF	Universal Service Fund

## **BACKGROUND**

### **Program Overview**

USAC is an independent not-for-profit corporation that operates under the direction of the FCC pursuant to 47 C.F.R. Part 54. The purpose of USAC is to administer the USF through four support mechanisms: High Cost; Low Income; Rural Health Care; and Schools and Libraries. These four support mechanisms ensure that all people regardless of location or income level have affordable access to telecommunications and information services. USAC is the neutral administrator of the USF and may not make policy, interpret regulations or advocate regarding any matter of universal service policy.

The High Cost Support Mechanism, also known as the HCP, ensures that consumers in all regions of the nation have access to and pay rates for telecommunications services that are reasonably comparable to those services provided and rates paid in urban areas, regardless of location or economic strata. Thus, the HCP provides support for telecommunications companies (Beneficiaries) that offer services to consumers in less-populated areas. The HCP consists of the following support mechanisms:

1. HCL: HCL support is available for rural companies operating in service areas where the cost to provide service exceeds 115% of the national average cost per line. HCL support includes the following two sub-components:
  - a. SNA: SNA support is available for carriers that make significant investment in rural infrastructure in years when HCL support is capped and is intended to provide carriers with additional incentives to invest in their networks.
  - b. SVS: SVS support is available to rural carriers that acquire high cost exchanges and make substantial post-transaction investments to enhance network infrastructure.
2. HCM: HCM support is available to carriers serving wire centers in certain states where the forward-looking costs to provide service exceed the national benchmark.
3. LSS: LSS is available to rural incumbent carriers serving 50,000 or fewer lines and is designed to help carriers recoup some of the high fixed switching costs of providing service to fewer customers.
4. ICLS: ICLS is available to rate-of-return incumbent carriers and competitive carriers, and is designed to help carriers offset interstate access charges and to permit each rate-of-return carrier to recover its common line revenue requirement, while ensuring that its SLCs remain affordable to its customers.
5. IAS: IAS is available to price-cap incumbent carriers and competitive carriers, and is designed to offset interstate access charges for price cap carriers.

USAC engaged KPMG to conduct a performance audit relating to the Beneficiary's compliance with the applicable requirements of 47 C.F.R. Part 54, Subparts C, D, and K, Part 36, Subpart F, and Part 32, Subpart B, of the FCC's Rules as well as FCC Orders governing Universal Service Support for the HCP relative to disbursements, of \$40,497,504, made from the USF during the twelve-month period ended June 30, 2008.

### **Beneficiary Overview**

Puerto Rico Telephone Company (SAC No. 633201), the subject of this performance audit, is an ILEC, Non-Rural, Cost Company with competition in its study area and received ICLS support for the twelve-month period ended June 30, 2008. The Beneficiary is headquartered in Guaynabo, Puerto Rico, and is subject to regulation by the TRB with respect to intrastate services and the FCC with respect to interstate services. The Beneficiary was owned by Verizon Communications prior to its purchase by América Móvil on March 30, 2007. The Beneficiary is the largest Puerto Rican telecommunications services



company, providing voice, data, long distance, broadband, directory publishing and wireless services to the island residents and businesses.

The Beneficiary is affiliated with PRTC – Central Zone, SAC No. 633200, and PRTC d/b/a Verizon Wireless (re-branded as Claro after the acquisition by América Móvil), SAC No. 639006, all of which are study areas of Puerto Rico Telephone Company, Inc., a subsidiary of Telecomunicaciones de Puerto Rico, Inc. (“TELPRI”). The Beneficiary, along with PRTC – Central Zone, represents the wireline operations, while Verizon accounts for the wireless operations. The three study areas provide both regulated and non-regulated communications service in Puerto Rico, but operate individually as three separate SACs.

The following table illustrates the High Cost support (ICLS only) disbursed by USAC to the Beneficiary for each quarter during the twelve-month period ended June 30, 2008:

Quarter Ended	Total Disbursements
September 30, 2007	\$9,219,366
December 31, 2007	\$9,219,366
March 31, 2008	\$11,029,386
June 30, 2008	\$11,029,386
<b>Total</b>	<b>\$40,497,504</b>

*Source: USAC*

#### **Performance Audit Approach**

The High Cost support received by the Beneficiary during the twelve-month period ended June 30, 2008, was based on the following annual financial and operational data submitted by the Beneficiary to NECA and USAC:

- 2005 FCC Form 509, based on calendar year 2005 data
- FCC Form 508, based on projected financial data for the twelve-month period ended June 30, 2008

These Forms capture the totals of certain pre-designated G/L Accounts including all asset accounts that make up TPIS as well as certain deferred liabilities and operating expenses, subject to the allocation between regulated and non-regulated activities (Part 64 Cost Allocations), the separation between interstate and intrastate operations (Part 36 Cost Separations) and the separation between access and non-access elements (Part 69 Cost Separations). In addition, the Beneficiary is required to submit certain annual investment data, including the categorization of COE and C&WF on the USF Forms.

USAC has engaged KPMG to conduct a performance audit of the Beneficiary’s compliance with the applicable requirements of 47 C.F.R. Part 54, Subparts C, D, and K, Part 36, Subpart F, and Part 32, Subpart B, of the FCC’s Rules as well as FCC Orders governing Universal Service Support for the HCP relative to disbursements, of \$40,497,504, made from the USF during the twelve-month period ended June 30, 2008.

Through discussions with the Beneficiary, KPMG noted that a CAM Audit was performed on the Beneficiary for the year ended December 31, 2005 pursuant to 47 C.F.R. § 64.904(c). Such audit of the Beneficiary’s ARMIS Report 43-03, Joint Cost Report, was conducted to determine whether the Report 43-03 presented fairly, in all material respects, financial information as required by the FCC’s Joint Cost Orders issued in conjunction with CC Docket No. 86–111, the FCC’s Accounting Safeguards proceeding

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in CC Docket No. 96–150, and the FCC's Rules and Regulations including 47 C.F.R. § 32.23, 32.27, 64.901 and 64.903 in force as of December 31, 2005. The CAM Audit covered the following areas:

- Part 32 balances of telecommunications plant assets, asset-related accounts, and operating expenses
- Part 64 Cost Allocation methodologies and underlying cost apportionment studies supporting the allocations of costs to regulated and non-regulated activities
- Transactions between affiliated entities
- Time reporting methodologies and underlying studies supporting payroll distributions

As the above areas were addressed by the previous CAM audit, USAC determined that such areas would be out-of-scope for the current performance audit.

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## **OBJECTIVES, SCOPE AND METHODOLOGY**

### **Objectives**

The objective of this performance audit was to evaluate the Beneficiary's compliance with the applicable requirements of 47 C.F.R. Part 54, Subparts C, D, and K, Part 36, Subpart F, and Part 32, Subpart B, of the FCC's Rules as well as FCC Orders governing Universal Service Support for the HCP relative to disbursements of, \$40,497,504, made from the USF during the twelve-month period ended June 30, 2008.

### **Scope**

The scope of this performance audit includes, but is not limited to, reviewing USF Forms or other correspondence and supporting documentation provided by the Beneficiary, assessing the methodology used to prepare or support the USF Forms or other correspondence, and evaluating disbursement amounts made or potentially due based on filings of USF Forms or other correspondence relative to disbursements made from the USF during the twelve-month period ended June 30, 2008. To the extent required, our procedures were extended to activities of the Beneficiary's affiliates and other related-parties to obtain sufficient information upon which to make our assessment.

KPMG identified the following areas of focus for this performance audit based upon our risk assessment:

1. Materiality Analysis
2. Reconciliation
3. Assets
4. COE Categorization
5. C&WF Categorization
6. Expenses
7. Overheads
8. Taxes
9. Part 36 and 69 Separations
10. Revenues
11. ICLS Projections

### **Methodology**

This performance audit includes procedures related to the ICLS mechanism for which funds were received by the Beneficiary during the disbursement period July 1, 2007 through June 30, 2008. The procedures performed during this performance audit include an analysis of the following:

1. Prior period engagements (e.g., audits, studies, etc.) that are significant within the context of the current audit objectives related to assessing risk, determining the nature, timing and extent of current audit work, and evaluating corrective actions taken to address findings and recommendations,

2. Material accounts included in the 2005 Form 509 selected for sample testing in the Asset<sup>1</sup> and Expense<sup>2</sup> test procedures,
3. Reconciliation from the audited financial statements to the G/L, the G/L to the Part 64 cost allocation inputs, the Part 64 cost allocation outputs to the Part 36 separations inputs, the Part 36 separations outputs to the Part 69 separations inputs, and the Part 69 separations inputs to the Form 509,
4. Framework and approach established by the Beneficiary to support the CPRs from 2005,
5. Asset balances and categorization to evaluate the reasonableness of the asset valuation, underlying G/L balances of assets and asset-related accounts, and classification and categorization of assets,
6. Methodologies and procedures used to perform the COE and C&WF asset categorizations,
7. Expense balances and categorization to determine the reasonableness of the expense reporting process in 2005,
8. Overhead distribution component of the operating expenses and plant assets,
9. Tax expense and related asset and liability balances in specific tax accounts recorded in the G/L,
10. Part 36 and 69 Separations methodologies including the appropriateness of allocation factors, evaluation of data sources and the frequency of the updates to the cost apportionment studies,
11. Revenues reported on the Form 509,
12. ICLS Projections reported on the Form 508.

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<sup>1</sup> KPMG used a stratified random sampling methodology to select 40 asset samples from the material accounts identified in the 2004 Form 509. In total, KPMG created ten strata as follows:

- Strata one and two were sampled from Accounts 2122, 2123 and 2124. Stratum one consisted of the six samples with the highest dollar amounts and stratum two consisted of two samples from the remaining items.
- Strata three and four were sampled from Account 2110. Stratum three consisted of five samples with the highest dollar amounts and stratum four consisted of two samples from the remaining items.
- Strata five and six were sampled from Account 2210. Stratum five consisted of five samples with the highest dollar amounts and stratum six consisted of three samples from the remaining items.
- Strata seven and eight were sampled from Account 2230. Stratum seven consisted of five samples with the highest dollar amounts and stratum eight consisted of two samples from the remaining items.
- Strata nine and ten were sampled from Account 2410. Stratum nine consisted of five samples with the highest dollar amounts and stratum ten consisted of five samples from the remaining items.

Additionally, KPMG used a stratified random sampling methodology to select 18 items from asset additions in 2005. KPMG stratified the population by account number and sampled four items from Account 2110, six items from Account 2120, two items from Account 2210, five items from Account 2230 and one item from Account 2410.

<sup>2</sup> KPMG selected a sample of 65 expense transactions from 2005 from the material accounts identified in the 2005 Form 509. In total, KPMG created four strata. Stratum one consisted of the top fifteen expenses with the highest dollar amounts, and was sampled at 100%. For strata two, three and four, the samples were randomly selected. Nineteen items from stratum two, sixteen items from stratum three and fifteen items from stratum four were included in the sample.

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## RESULTS

KPMG's performance audit results include a listing of significant findings, recommendations and management's responses with respect to the Beneficiary's compliance with FCC requirements, and an estimate of the monetary impact of such findings relative to 47 C.F.R. Part 54, Subparts C, D, and K, Part 36, Subpart F, and Part 32, Subpart B, applicable to the disbursements made from the USF during the twelve-month period ended June 30, 2008. KPMG also noted other matters that we have reported to the management of the Beneficiary in a separate letter dated July 29, 2010.

### Findings, Recommendations and Beneficiary Responses

KPMG's performance audit procedures identified three significant findings. The findings along with the criteria, cause, effect, recommendation, and the Beneficiary response are as follows:

#### **1. HC-2009-FL119-F01 – Unsupported or Partially Supported Assets**

<b>Condition</b>	KPMG selected a statistical sample of assets in service as of December 31, 2005 for testing. The Beneficiary was unable to provide sufficient supporting documentation for 19 of the 58 assets selected for testing. In addition, the Beneficiary was only able to provide partial support for 7 of the 58 assets selected for testing.
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<b>Criteria</b>	According to 47 C.F.R. § 32.12(a) and (b), "The company's financial records shall be kept in accordance with generally accepted accounting principles to the extent permitted by this system of accounts. The company's financial records shall be kept with sufficient particularity to show fully the facts pertaining to all entries in these accounts."
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In addition, according to 47 C.F.R. § 54.202(e), "All eligible telecommunications carriers shall retain all records required to demonstrate to auditors that the support received was consistent with the universal service high-cost program rules. These records should include the following: data supporting line count filings; historical customer records; fixed asset property accounting records; general ledgers; invoice copies for the purchase and maintenance of equipment; maintenance contracts for the upgrade or equipment; and any other relevant documentation. This documentation must be maintained for at least five years from the receipt of funding."

In addition, according to 47 C.F.R. § 32.2000(e)(2), "The basic property records must be: (i) Subject to internal accounting controls, (ii) auditable, (iii) equal in the aggregate to the total investment reflected in the financial property control accounts as well as the total of the cost allocations supporting the determination of cost-of-service at any particular point in time, and (iv) maintained throughout the life of the property."

<b>Cause</b>	The Beneficiary did not have policies and procedures in place to ensure that appropriate records were retained to support the asset amounts, including underlying supporting documentation and updated CPRs in sufficient detail to facilitate compliance with the FCC's CPR requirements.
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<b>Effect</b>	<p>The exceptions identified above have an impact on ICLS disbursements. The monetary impact of this finding relative to disbursements made from the USF for the HCP for the twelve-month period ended June 30, 2008 is estimated as follows:</p> <ul style="list-style-type: none"> <li>• ICLS disbursements calculated in the 2005 data submission were potentially overstated by approximately \$520,941, as the amounts originally reported could not be supported.</li> </ul>
<b>Recommendation</b>	<p>The Beneficiary should develop an effective process to retain documentation supporting asset additions in accordance with 47 C.F.R. § 32.12(a) and (b), 47 C.F.R. § 54.202(e) and 47 C.F.R. § 32.2000(e)(2).</p>
<b>Beneficiary Response</b>	<p>Management agrees that we were unable to provide 100% of the required supporting documentation for the asset samples tested by the auditors. We do not believe the company received more ICLS support than it should have, only that at this time we were unable to provide the required supporting documentation for the asset samples. It is important to remember that the 47 CFR 54.202(e) requirements were not adopted and implemented by the FCC until several years after 2005. If the company still operated under rate of return regulation, we would readily indicate our complete agreement with the recommendation. However, effective July 1, 2008 the company implemented Price Cap regulation and the amount of ICLS that is received no longer is affected by revenue requirement considerations. Accordingly, Management agrees to implement the auditor's recommendation, to the extent appropriate for a Price Cap company. It is important to remember that the accuracy of the amounts reported by the company, which were used to determine the amount of ICLS to which we were entitled, was previously confirmed through two audits. First, the annual financial audit that was performed by the company's external auditors confirmed correct account balances under Generally Accepted Accounting Principles. Second, the accuracy of the amounts reported by the company in the ARMIS 43-03 reports was confirmed by the Cost Allocation Manual Audit conducted by external auditors and the results of which were provided to the FCC."</p>

## 2. HC-2009-FL119-F02 – Unsupported Expenses

<b>Condition</b>	<p>KPMG selected a statistical sample of expense transactions from 2005 for testing. The Beneficiary was unable to provide sufficient documentation to support six of the 65 expense items selected for testing.</p>
<b>Criteria</b>	<p>According to 47 C.F.R. § 32.12(a) and (b), "The company's financial records shall be kept in accordance with generally accepted accounting principles to the extent permitted by this system of accounts. The company's financial records shall be kept with sufficient particularity to show fully the facts pertaining to all entries in these accounts."</p> <p>In addition, according to 47 C.F.R. § 54.202(e), "All eligible telecommunications carriers shall retain all records required to demonstrate to auditors that the support received was consistent with the universal service</p>

high-cost program rules. These records should include the following: data supporting line count filings; historical customer records; fixed asset property accounting records; general ledgers; invoice copies for the purchase and maintenance of equipment; maintenance contracts for the upgrade or equipment; and any other relevant documentation. This documentation must be maintained for at least five years from the receipt of funding.”

**Cause** The Beneficiary does not have effective policies and procedures in place to ensure that appropriate records are retained to support expense amounts.

**Effect** The exceptions identified above have an impact on ICLS disbursements. The monetary impact of this finding relative to disbursements made from the USF for the HCP for the twelve-month period ended June 30, 2008 is estimated as follows:

- ICLS disbursements calculated in the 2005 data submission were potentially overstated by approximately \$103,262, as the amounts originally reported could not be supported.

**Recommendation** The Beneficiary should develop an effective process to retain documentation supporting expense transactions in accordance with 47 C.F.R. § 32.12(a) and (b) and 47 C.F.R. § 54.202(e).

**Beneficiary Response** Management agrees that we were unable to provide 100% of the required supporting documentation for the expense samples tested by the auditors. We do not believe the company received more ICLS support than it should have, only that at this time we were unable to provide the required supporting documentation for the asset samples. It is important to remember that the 47 CFR 54.202(e) requirements were not adopted and implemented by the FCC until several years after 2005. If the company still operated under rate of return regulation, we would readily indicate our complete agreement with the recommendation. However, effective July 1, 2008 the company implemented Price Cap regulation and the amount of ICLS that is received no longer is affected by revenue requirement considerations. Accordingly, Management agrees to implement the auditor’s recommendation, to the extent appropriate for a Price Cap company. It is important to remember that the accuracy of the amounts reported by the company, which were used to determine the amount of ICLS to which we were entitled, was previously confirmed through two audits. First, the annual financial audit that was performed by the company’s external auditors confirmed correct account balances under Generally Accepted Accounting Principles. Second, the accuracy of the amounts reported by the company in the ARMIS 43-03 reports was confirmed by the Cost Allocation Manual Audit conducted by external auditors and the results of which were provided to the FCC.”

### **3. HC-2009-FL119-F03 – Incorrect End User SLC Revenue**

**Condition** The End User SLC Revenues reported on the 24 Month View Report and the 2005 FCC Form 509 were overstated by \$58,750 for October 2005.

<b>Criteria</b>	According to the Instructions for Form 509 and 47 C.F.R. § 54.903(a)(1) – (4), the Beneficiary is required to submit data that agrees to underlying source documentation, including End User SLC Revenue, necessary to calculate ICLS, to USAC by the required date.
<b>Cause</b>	The Beneficiary did not have an effective process in place to ensure that the SLC Revenue reported on FCC Form 509 agreed to underlying source documentation.
<b>Effect</b>	<p>The exception identified above has an impact on ICLS disbursements. The monetary impact of this finding relative to disbursements made from the USF for the HCP for the twelve-month period ended June 30, 2008 is estimated as follows:</p> <ul style="list-style-type: none"> <li>• ICLS disbursements calculated in the 2005 data submission were approximately \$58,750 lower than they would have been had amounts been reported properly.</li> </ul>
<b>Recommendation</b>	The Beneficiary should enhance policies and procedures governing the reporting of SLC Revenue in accordance with 47 C.F.R. § 54.903(a)(1) – (4).
<b>Beneficiary Response</b>	Management agrees that an error of \$58,750 was apparently made in the reporting of SLC Revenue as reported by the auditor. Management agrees to evaluate how existing policies and procedures might be enhanced to minimize the risk of similar errors in the future.

### **Conclusion**

KPMG's evaluation of the Beneficiary's compliance with the applicable requirements of 47 C.F.R. Part 54, Subparts C, D, and K, Part 36, Subpart F, and Part 32, Subpart B, based on revised USF Forms or other correspondence identified expense and asset findings relative to the disbursements made from the USF during the twelve-month period ended June 30, 2008. Detailed information relative to the findings is described in the Findings, Recommendations and Beneficiary Responses section above.

KPMG evaluated the USF disbursements made based on earlier filings of USF Forms, as compared to those which would have been made based on the revised filings or other correspondence. The combined estimated monetary impact of these findings is as follows:

<b>Disbursement Mechanism</b>	<b>Monetary Impact Overpayment</b>
ICLS	\$565,453
<b>Total Impact</b>	<b>\$565,453</b>





*Puerto Rico Telephone Company*  
*Follow-up Audit Number: HC-2009-FL-119*  
*(SAC Number: 633201)*

*Letter to management in connection with the  
performance audit for the Universal Service Fund  
disbursements made during the twelve-month period  
ended June 30, 2008*

Prepared for: Universal Service Administrative Company

As of Date: July 29, 2010

KPMG LLP  
2001 M Street NW  
Washington, DC 20036



KPMG LLP  
2001 M Street, NW  
Washington, DC 20036

Puerto Rico Telephone Company  
1513 Roosevelt Avenue, 8<sup>th</sup> Floor  
Cappara Heights, PR 00920

July 29, 2010

Ladies and Gentlemen:

We have conducted a performance audit to evaluate Puerto Rico Telephone Company's, Study Area Code ("SAC") No. 633201, ("Beneficiary") compliance with the applicable requirements of 47 C.F.R. Part 54, Subparts C, D, and K, Part 36, Subpart F, and Part 32, Subpart B, of the Federal Communications Commission's ("FCC") Rules as well as FCC Orders governing Universal Service Support for the High Cost Program ("HCP") relative to disbursements, of \$40,497,504, made from the Universal Service Fund ("USF") during the twelve-month period ended June 30, 2008. Our work was performed during the period from April 22, 2010 to July 29, 2010 and our results are as of July 29, 2010.

During this performance audit we noted immaterial noncompliance that was not in our report dated July 29, 2010. These immaterial noncompliance items are presented for your consideration as comments and recommendations. These comments and recommendations, all of which have been discussed with the appropriate members of management, are intended to result in improved compliance with the aforementioned requirements and are summarized, along with the views of management, in Attachment 1 of this letter. We did not conduct performance audit procedures over the views of management, and accordingly, we provide no conclusions over these views relative to our audit objective.

Our performance audit procedures are designed primarily to evaluate the Beneficiary's compliance with the aforementioned requirements, and therefore may not bring to light all weaknesses in policies or procedures that may exist. We aim, however, to use our knowledge of your organization gained during our work to make comments and suggestions that we hope will be useful to you.

We would be pleased to discuss these comments and recommendations with you at any time.

This report is intended solely for the information and use of Puerto Rico Telephone Company's management and others within the organization, the Universal Service Administrative Company ("USAC") and the FCC, and is not intended to be and should not be used by anyone other than these specified parties.

Very truly yours,

**KPMG LLP**

cc: USAC  
FCC

## **Attachment 1**

KPMG's performance audit procedures identified the following immaterial findings. The findings along with the criteria, cause, effect, recommendation and Beneficiary response are as follows:

### **1 HC-2009-FL119-C01 – Lack of Continuing Property Record ("CPR") Details**

<b>Condition</b>	<p>The Beneficiary did not maintain CPRs, as of December 31, 2005, in sufficient detail for the following accounts:</p> <ul style="list-style-type: none"><li>• General Support Facilities (Account 2110)</li><li>• Central Office Equipment ("COE") Switching (Account 2210)</li><li>• COE Transmission (Account 2230)</li><li>• Cable and Wire Facilities (Account 2410)</li></ul>
<b>Criteria</b>	<p>According to 47 C.F.R. § 32.12(b), "The company's financial records shall be kept with sufficient particularity to show fully the facts pertaining to all entries in these accounts. The detail records shall be filed in such manner as to be readily accessible for examination by representatives of this Commission."</p> <p>In addition, according to 47 C.F.R. § 54.202(e), "All eligible telecommunications carriers shall retain all records required to demonstrate to auditors that the support received was consistent with the universal service high-cost program rules. These records should include the following: data supporting line count filings; historical customer records; fixed asset property accounting records; general ledgers; invoice copies for the purchase and maintenance of equipment; maintenance contracts for the upgrade or equipment; and any other relevant documentation. This documentation must be maintained for at least five years from the receipt of funding."</p> <p>Also, according to 47 C.F.R. § 32.2000(e)(2), "The basic property records must be: (i) Subject to internal accounting controls, (ii) auditable, (iii) equal in the aggregate to the total investment reflected in the financial property control accounts as well as the total of the cost allocations supporting the determination of cost-of-service at any particular point in time, and (iv) maintained throughout the life of the property."</p>
<b>Cause</b>	<p>The Beneficiary retained a snapshot of the CPRs as of December 31, 2005. However, the Beneficiary did not have an effective process in place to retain CPRs in sufficient detail in accordance with applicable FCC Rules and Orders.</p>
<b>Effect</b>	<p>There is no monetary impact on the high cost disbursements received by the Beneficiary during the twelve-month period ended June 30, 2008.</p>

KPMG performed alternative testing procedures to assess the reasonableness of the asset balances reported as of December 31, 2005. However, the lack of sufficient financial records for capitalized assets impairs the Beneficiary's ability to readily identify the associated historical cost and accumulated depreciation when assets are sold, scrapped or otherwise retired.

**Recommendation** The Beneficiary should establish and follow an appropriate methodology to properly maintain CPRs in sufficient detail in accordance with applicable FCC Rules and Orders.

**Beneficiary Response** Management recognizes that the snapshot copy of the CPRs from 2005 that we retained did not contain sufficient detail, which required the auditors to utilize alternative methods to test the asset values reported for 2005. The lack of a snapshot copy of any part of the 2005 CPRs was primarily due to the conversion of various accounting systems, including the General Ledger, to an updated platform. It is important to remember that the 47 CFR 54.202(e) requirements were not adopted and implemented by the FCC until several years after 2005. Management believes that we currently maintain CPRs in sufficient detail in accordance with applicable FCC Rules and Orders and we agree to retain copies of the CPRs to the extent required by applicable FCC Rules and Orders.

## **2 HC-2009-FL119-C02 – Lack of Support for Freeze of COE Categorization Factors**

**Condition** The Beneficiary was unable to provide documentation to support the communications to the FCC regarding its election to freeze the factors used to categorize COE assets.

**Criteria** According to 47 C.F.R. § 32.12(b), "The company's financial records should be kept with sufficient particularity to show fully the facts pertaining to all entries in these accounts."

In addition, according to 47 C.F.R. § 54.202(e), "All eligible telecommunications carriers shall retain all records required to demonstrate to auditors that the support received was consistent with the universal service high-cost program rules. These records should include the following: data supporting line count filings; historical customer records; fixed asset property accounting records; general ledgers; invoice copies for the purchase and maintenance of equipment; maintenance contracts for the upgrade or equipment; and any other relevant documentation. This documentation must be maintained for at least five years from the receipt of funding."

**Cause** The Beneficiary did not have an effective process in place to retain documentation supporting the communication of its election to freeze COE categorization factors to the FCC.

**Effect** There is no monetary impact on the high cost disbursements received by the Beneficiary during the twelve-month period ended June 30, 2008.

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However, the lack of sufficient documentation impairs the Beneficiary's ability to readily support the factors used to categorize COE assets.

**Recommendation** The Beneficiary should develop an effective process to retain documentation supporting its election to freeze the COE categorization factors in accordance with 47 C.F.R. § 32.12(b) and 47 C.F.R. § 54.202(e).

**Beneficiary Response** Management recognizes that we were unable to provide documentation supporting communication to the FCC of the election to freeze the factors used to categorize the investment in COE assets. Management agrees with the spirit of the auditor recommendation and will develop a process to retain such documentation, to the extent possible. However, since we do not currently possess documentation of the original communication, it will not be possible to retain a copy of that documentation, unless we are able to obtain a replacement copy.

**USAC Management Response**

Date: August 25, 2010

Subject: Improper Payment Information Act (IPIA) Audit of the High Cost Program of  
Puerto Rico Tel Co, HC-2009-FL-119, Follow-up Audit to HC-2008-151

USAC management has reviewed the IPIA Performance Audit of Puerto Rico Tel Co ("the Carrier"), SAC 633201. The audit firm KPMG LLP has issued recommendations in its follow-up audit report. Our response to the audit is as follows:

**Finding 1**

**Condition:**

KPMG selected a statistical sample of assets in service as of December 31, 2005 for testing. The Beneficiary was unable to provide sufficient supporting documentation for 19 of the 58 assets selected for testing. In addition, the Beneficiary was only able to provide partial support for 7 of the 58 assets selected for testing.

**Management Response:**

USAC High Cost management concurs with the auditor. The Carrier does not have documentation consistent with Part 32 rules necessary to support account data reported in its filings with the National Exchange Carrier Association (NECA) and USAC.

USAC acknowledges the Carrier converted to Price Cap regulation effective July 1, 2008; however, the period under audit preceded the conversion and documentation should have been maintained by the Carrier.

As directed by the FCC, USAC is obligated to implement all recommendations arising from the audits including recovery of funds that may have been improperly disbursed to beneficiaries. Therefore, USAC will recover High Cost support in the amount of \$520,941.

**Finding 2**

**Condition:**

KPMG selected a statistical sample of expense transactions from 2005 for testing. The Beneficiary was unable to provide sufficient documentation to support six of the 65 expense items selected for testing.

**Management Response:**

USAC High Cost management concurs with the auditor. The Carrier does not have documentation consistent with Part 32 rules necessary to support account data reported in its filings with the National Exchange Carrier Association (NECA) and USAC.

USAC acknowledges the Carrier converted to Price Cap regulation effective July 1, 2008; however, the period under audit preceded the conversion and documentation should have been maintained by the Carrier.

As directed by the FCC, USAC is obligated to implement all recommendations arising from the audits including recovery of funds that may have been improperly disbursed to beneficiaries. Therefore, USAC will recover High Cost support in the amount of \$103,262.

**Finding 3**

**Condition:**

The End User SLC Revenues reported on the 24 Month View Report and the 2005 FCC Form 509 were overstated by \$58,750 for October 2005.

**Management Response:**

USAC High Cost management concurs with the auditor. Failure to submit accurate financial data may result in incorrect payments from the USF. It is the obligation of a carrier to ensure that it is providing accurate data consistent with FCC rules.

USAC recognizes that the Carrier committed to addressing its internal controls related to this finding, and requests that the Carrier provide a detailed update of specific corrective actions no later than 60 days after receipt of this management response. (Please send to USAC High Cost at [hcaudits@usac.org](mailto:hcaudits@usac.org) when submitting this information.)

**Comment 1**

**Condition:**

The Beneficiary did not maintain CPRs, as of December 31, 2005, in sufficient detail for the following accounts:

- General Support Facilities (Account 2110)
- Central Office Equipment ("COE") Switching (Account 2210)
- COE Transmission (Account 2230)
- Cable & Wire Facilities (Account 2410)

**Management Response:**

USAC High Cost management concurs with the auditor. The Carrier does not have documentation consistent with Part 32 rules necessary to support account data reported in its filings with the National Exchange Carrier Association (NECA) and USAC.

USAC notes that the Carrier believes it has sufficient internal controls related to this comment, and requests that the Carrier provide a detailed update of specific controls no later than 60 days after receipt of this management response. (Please send to USAC High Cost at [hcaudits@usac.org](mailto:hcaudits@usac.org) when submitting this information.)

USAC notes that the auditor found no monetary effect so there is no recovery of funds required.

**Comment 2**

**Condition:**

The Beneficiary was unable to provide documentation to support the communications to the FCC regarding its election to freeze the factors used to categorize COE assets.

**Management Response:**

USAC High Cost management concurs with the auditor. The Carrier does not have documentation consistent with Part 32 rules necessary to support account data reported in its filings with the National Exchange Carrier Association (NECA) and USAC.

USAC recognizes that the Carrier committed to addressing its internal controls related to this comment, and requests that the Carrier provide a detailed update of specific corrective actions no later than 60 days after receipt of this management response. (Please send to USAC High Cost at [hcaudits@usac.org](mailto:hcaudits@usac.org) when submitting this information.)

USAC notes that the auditor found no monetary effect so there is no recovery of funds required.

**Audit Recovery Total**

	ICLS
Finding 1	\$520,941
Finding 2	103,262
Finding 3	(58,750)
Total	\$565,453

This concludes the USAC management response to the audit.

## **APPENDIX B – USAC NOVEMBER 12, 2010 LETTER**

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## High Cost and Low Income Division

By Certified Mail, Return Receipt Requested

November 12, 2010

Robert Figenschier  
Director - Regulatory Cost Agency  
Puerto Rico Telephone Company  
1513 Franklin D. Roosevelt Avenue  
San Juan, PR 00920

Re: Action to be Taken Resulting from High Cost Audit of Puerto Rico Telephone Company (SAC 633201) Audit Report HC-2009-FL-119, Follow-up Audit to HC-2008-151

Dear Robert Figenschier:

A follow-up audit of Puerto Rico Telephone Company for Study Area Code (SAC) 633201 was conducted on behalf of the USAC Internal Audit Division (IAD) and the Federal Communications Commission (FCC) Office of Inspector General (OIG) for the period July 1, 2006 through June 30, 2007. The final report from that follow-up was sent to the company on October 26, 2010.

As is USAC's policy with adverse or disclaimer opinions, the follow-up audit was required to quantify the monetary effect of audit HC-2008-151 conducted by KPMG LLP. The effect quantified will result in a recovery of \$565,453 of Interstate Common Line Support from SAC 633201. Please refer to the audit report for details on the funds being recovered. USAC will recover these funds from the January 2011 High Cost support payment, which will be disbursed at the end of February 2011.

Consistent with current administrative practice, if the recovery amount exceeds the company's disbursement for that month, USAC will continue to offset the remaining recovery amount balance against subsequent High Cost support disbursements until such time as the full amount is recovered. If necessary, USAC reserves the right to invoice and collect any remaining amounts owed.

As is the case with any decision of the USF administrator, you have the right to appeal this decision directly to the FCC pursuant to 47 C.F.R. § 54.719. The appeal must be filed within 60 days of the date of this letter as required by 47 C.F.R. § 54.720(a) and must conform to the filing requirements of 47 C.F.R. § 54.721. Additional information about the FCC appeals process may be found at <http://www.usac.org/hc/about/filing-appeals.aspx> under "OPTION B."

Sincerely,

Craig Davis  
Director, High Cost

RAF received  
11/29/2010

## **APPENDIX C – USAC OCTOBER 25, 2010 LETTER**

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High Cost and Low Income Division

Certified Mail, Return Receipt Requested

October 25, 2010

RE: Results of the Follow-Up Audit to the 2008-2009 Federal Communications  
Commission (FCC) Office of the Inspector General (OIG) Audit

Dear Beneficiary:

Enclosed are the finalized report from, and the USAC High Cost Management Response to, the follow-up audit to your FCC OIG audit. Included in the High Cost Management Response may be directives required for the closure of audit findings and/or comments. Please complete any such follow-up measures and provide documentation of corrective actions to USAC High Cost within 60 days of receipt of this letter, if applicable.

As is the case with any administrative decision made by USAC, you have the right to appeal findings and/or comments within the audit and High Cost Management Response. You may appeal to USAC or the FCC, and the appeal must be filed within 60 days of receipt of this letter. Additional information about the appeals process may be found at <http://www.usac.org/hc/about/filing-appeals.aspx>.

If you have any questions, please contact the High Cost Program at 202-776-0200 or [hcaudits@usac.org](mailto:hcaudits@usac.org). Please direct all High Cost audit correspondence to either the e-mail address above or:

USAC  
Attn: HC Audits  
2000 L Street, NW  
Suite 200  
Washington, DC 20036

Sincerely,

*High Cost Program Management*

Enclosure: Final Audit Report

## CERTIFICATE OF SERVICE

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I hereby certify that on this 11th day of January, 2011, I caused copies of the foregoing  
Request for Review By Puerto Rico Telephone Company of the Decision of the Universal  
Service Administrator to be served upon the following party by first-class mail:

Universal Service Administrative Company  
Attention: David Capozzi, Acting General Counsel  
2000 L Street, N.W., Suite 200  
Washington, DC 20036

  
\_\_\_\_\_

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the matter of )  
 )  
Request for Review by Puerto Rico ) WC Docket No. 08-71  
Telephone Company (SAC Number )  
633201) of the Decision of the Universal )  
Service Administrator Regarding Audit )  
Report HC-2009-FL-119, Follow-up Audit- )  
2008-151

**AFFIDAVIT OF ROBERT A. FIGENSCHER IN SUPPORT OF REQUEST FOR  
REVIEW BY PUERTO RICO TELEPHONE COMPANY**

I, Robert A. Figenscher, of legal age, married, and resident of Toa Baja, Puerto Rico, do hereby declare under penalty of perjury the following:

1. I am Regulatory Cost Accounting Director for Puerto Rico Telephone Company.
2. I have read the foregoing Request for Review of Puerto Rico Telephone Company of the Decision of the Universal Service Administrator that was filed on January 11, 2011, and any facts stated therein are true and correct to the best of my knowledge, information, and belief.

On Guaynabo, Puerto Rico, this 11<sup>th</sup> day of January, 2011.

Signature: Robert Figenscher  
Robert A. Figenscher  
Puerto Rico Telephone Company

Affidavit No. 1346

Subscribed and sworn to before me by Robert A. Figenscher, of the personal circumstances above mentioned, personally known to me.

On Guaynabo, Puerto Rico, this 11<sup>th</sup> day of January, 2011.

Notary Public: M. del C. Garcia

